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**AUG 11 2005**

**OFFICE OF PETITIONS**

MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
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CHICAGO, IL 60661

In re Application of	:	DECISION REFUSING STATUS
Mahany, et al.	:	UNDER 37 CFR 1.47(a)
Application No. 10/646,318	:	AND DISMISSING PETITION
Filed: August 22, 2003	:	UNDER 37 CFR 1.48
Atty. Dkt. 14366US02	:	

This decision is in response to the petition under 37 CFR 1.48 and the petition under 37 CFR 1.47(a), filed April 25, 2005.

**DECISION UNDER 37 CFR 1.47(a)**

Petitioners herein seek to amend the above-identified application to include Keith Cargin, however, petitioners' allege that Cargin has refused to sign an oath.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (2). The declaration submitted herein is not acceptable because it fails to set forth the residence and mailing address of the non-signing inventor. There is no indication in the application file that this information has been provided by way of an application data sheet in accordance with 37 CFR 1.76. Moreover, the pages of the declaration are not properly numbered; i.e., page 1 of 3, etcetera. Thus, any renewed petition under 37 CFR 1.47 must be accompanied by a newly executed oath or declaration in compliance with 37 CFR 1.63 or an application data sheet in compliance with 37 CFR 1.76.

For the reasons set forth herein, the petition under 37 CFR 1.48 is **DISMISSED**.

**DECISION UNDER 37 CFR 1.48(a)**

Petitioners herein request correction of the inventorship of the instant application.

Correction of inventorship pursuant to 37 CFR 1.48(a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR §§ 1.42, 1.43 or 1.47; (4) the processing fee set forth in 37 CFR 1.17(i); and (5) if an assignment has been executed by any of the original inventors, the written consent of the assignee.

The instant petition fails to satisfy requires (2) and (3) set forth above.

As to item (2), the requirement for a statement from the person being added has not been satisfied as the instant application has not satisfied the requirements of either 37 CFR 1.48(a)(2) or 37 CFR 1.47. Accordingly, any renewed petition under 37 CFR 1.48 must be accompanied by the required statement of a grantable petition under 37 CFR 1.47.

As to item (3), a new oath or declaration is required to be submitted in accordance with the requirements of 37 CFR 1.63. For the reasons set forth above, the declaration submitted herewith is not acceptable. Accordingly, any renewed petition under 37 CFR 1.48 must be accompanied by a newly executed oath or declaration.

For the reasons set forth herein, the petition under 37 CFR 1.48(a) is **DISMISSED**.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The required petition fee under 37 CFR 1.47 is currently \$200.00. Thus, the remaining \$70.00 has been charged to Deposit Account No. 13-0017.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

**Mail Stop Petition**

Commissioner for Patents  
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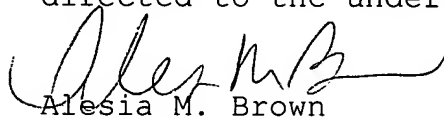
By facsimile:

(571) 272-8300

By hand:

U.S. Patent and Trademark Office  
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Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.



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Office of Petitions